

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

CITY OF SOUTHAVEN, MISSISSIPPI

PLAINTIFF

V.

CIVIL ACTION NO.
2:07-CV-58-B-A

DATAMATIC, LTD.

DEFENDANT

ORDER

Defendant Datamatic, Ltd. requests the court to strike plaintiff City of Southaven's proposed exhibits numbers 22 through 124 [docket numbers 150 & 152]. Southaven produced exhibits 22 through 121 to Datamatic on June 27, 2008. Exhibits 122 through 124 are affidavits of three individuals that were not previously disclosed to the defendant. The discovery deadline in this case was April 7, 2008, and the trial is August 18, 2008. Both parties concede that proposed exhibits 60, 117 and 41 are duplicates of Datamatic's exhibits 194, 197 and 218.¹

Southaven has not presented any persuasive evidence to the court that might outweigh the prejudicial value of allowing the use of such documents at this late stage in the proceedings. The court also concludes – wholly aside from admissibility issues – that it would be prejudicial to allow Southaven to use exhibits 122 through 124 as there is not sufficient time for Datamatic to depose those individuals before trial. Both parties were informed by the undersigned at the initial case management conference held on June 25, 2007, that witnesses and documents disclosed after the discovery deadline will not be allowed. For these reasons, it is

¹Although Southaven represents that many other of its exhibits are identical to exhibits listed by Datamatic, counsel for Datamatic counters that the exhibits are not identical as they contain handwritten notes or other variations from Datamatic's exhibits.

ORDERED

That defendant's motion to strike is GRANTED IN PART and DENIED IN PART.

Except for the exhibits identified as exact duplicates of Datamatic's exhibits 194, 197 and 218,

Southaven may not offer the exhibits it has identified as plaintiff's exhibits 22-124.

This the 25th day of July, 2008.

/s/ S. ALLAN ALEXANDER
U.S. MAGISTRATE JUDGE